

REMARKS

By this amendment, applicants have amended main claim 22 to recite that structurant for the structured oil phase is specifically trihydroxystearin. In this regard, applicants have also amended claims 15-17, without prejudice. Accordingly, claims now pending are claims 4-7, 9-13, and 19-23, as amended.

As discussed in greater detail below, the amendment is intended to highlight the strong distinction between having trihydroxystearin in oil phase versus aqueous phase. Applicants have previously noted this and this is brought out further in the Declaration of Mike Aronson of record. In addition, the claim amendment now makes the showing commensurate in scope with the showings and, it is believed, the claims should now be clearly patentable.

Specifically, the Examiner continues to reject the claims primarily on the basis of Glenn in view of Tsaur. This rejection is respectfully traversed for reasons set forth below.

Referring to paragraph 7 of the Aronson declaration, the trihydroxystearin used in Glenn is an aqueous phase stabilizer which is clearly added to water (when mixing) and is used as a water phase structurant. Oils are added only after trihydroxystearin is added.

By contrast, as noted in paragraph 9 of Aronson, it is the oil phase which is structured with solid particles (e.g., trihydroxystearin) forming the 3-dimensional network.

The purpose of using trihydroxystearin in aqueous phase in Glenn is to prevent coalescence and enhance stability (paragraph 10 of Aronson declaration). The purpose

The fact that formulations behave differently depending on whether trihydroxystearin is in oil or aqueous phase is clearly demonstrated in Figures 1 and 2 of the Aronson declaration and as explained in paragraph 12.

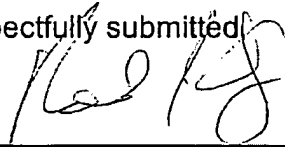
Finally, limiting claim to trihydroxystearin also addresses the scope issue which the Examiner raises at page 7, lines 12-17 of the Office Action.

The Tsaor reference, in addition to disclosing a process where screening decreases size of droplets (large size droplets being formed on injection of oil to aqueous phase), does nothing to remedy the deficiency of Glenn compositions and so the combination must also fail.

Similarly, the combination of Glenn, Tsaor and Lochhead must fail (rejection of claims 19 and 21) because of the fundamental deficiency in Glenn compositions.

In view of the amendment and discussion above, it is respectfully requested that the Examiner withdraw all rejections of the claims and that the claims, as amended, be allowed.

If a telephone conversation would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided.

Respectfully submitted,


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